

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
DF-46 (REV 08/15)

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|--|-----------------------|--|---|
| Fiscal Year 2016-17 | Business Unit 0820 | Department Justice | Priority No. 1 |
| Budget Request Name 0820-400-BCP-BR-2016-MR | | Program LEGAL SERVICES LAW ENFORCEMENT | Subprogram ENERGY, MORTGAGE FRAUD BUREAU OF INVESTIGATION |



Budget Request Description
Technical Budget Adjustment

Budget Request Summary

The Department of Justice requests to adjust its spending authority in three special funds in order to properly align program activities with fund sources. This is a no cost request.

| | | |
|---|--|------|
| Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | Code Section(s) to be Added/Amended/Repealed | |
| Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i> | Department CIO | Date |
| For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance. <input type="checkbox"/> FSR <input type="checkbox"/> SPR Project No. Date: | | |

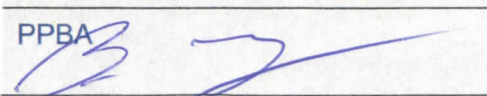
If proposal affects another department, does other department concur with proposal? ☐ Yes ☐ No
Attach comments of affected department, signed and dated by the department director or designee.

| | | | |
|---|----------------|---|----------------|
| Prepared By | Date | Reviewed By  | Date 4-6-16 |
| Department Director  | Date 4/7/16 | Agency Secretary | Date |

Department of Finance Use Only

Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology

BCP Type: ☐ Policy ☐ Workload Budget per Government Code 13308.05

| | |
|--|---|
| PPBA  | Date submitted to the Legislature May 13, 2016 |
|--|---|

Analysis of Problem

A. Budget Request Summary

The Department of Justice requests to adjust spending authority in three special funds in order to properly align program activities with fund sources.

Specifically, we would like to increase spending authority in the Unfair Competition Law Fund by \$10,746,000, increase spending authority in the Public Rights Law Enforcement Fund by \$5,724,000 and reduce spending authority in the Legal Services Revolving Fund by \$16,470,000.

This is a zero cost request.

B. Background/History

As chief law officer of California, the Attorney General is responsible for ensuring that state laws are uniformly and adequately enforced. The Attorney General's specific charges are threefold: to provide legal representation, to support common law enforcement, and to protect consumers and the environment. The Attorney General represents the People of California in criminal and civil matters; serves as legal counsel to state officers, boards, commissions and departments; and assists district attorneys in the administration of justice.

In addition, the Attorney General establishes and operates projects and programs that protect Californians from fraudulent, unfair and illegal activities that victimize consumers or threaten public safety, participates in criminal and civil investigations, and enforces the laws that safeguard the environment and natural resources.

Division of Legal Services - The Consumer Law Section enforces the laws against false advertising, deceptive marketing and unfair competition through civil prosecutions brought on behalf of the People. In these cases, the Attorney General seeks restitution for consumers, and civil penalties and injunctive relief to halt the illegal activities. The program activities in this section are generally supported from settlement proceeds deposited into the Unfair Competition law Fund (UCL).

In an effort to bring immediate focus and action to the growing national mortgage crisis, the Attorney General formed a Mortgage Fraud Strike Force in May 2011 to investigate and prosecute mortgage fraud. This strike force was established in the Consumer Law section. Given the need to act in an expeditious manner, the task force utilized discretionary funding from the department's Legal Services Revolving Fund (LSRF), with the intent of reimbursing the LSRF with future settlement proceeds. Generally, the LSRF is used to support the investigation and litigation activities taken on behalf of the state agencies employing the legal services of the AG office. However, the fund can also be used for investigation and litigation activities funded through judgments of settlements.

In February 2012, the Attorney General secured an \$18 billion agreement as part of a national multistate settlement to penalize bank servicing and foreclosure misconduct. Under the settlement terms, the Unfair Competition Law Fund was set to receive \$41 million in civil penalties. However, these funds were redirected to the General Fund to assist in the State's budget crisis. Since this time, the Mortgage Fraud Task Force has evolved into its own Mortgage Fraud section and spends approximately \$2.81 million annually from the LSRF.

The LSRF is generally assumed to represent client legal service costs rather than fund long-term consumer protection services; therefore, we are requesting a technical adjustment to transition the funding for mortgage fraud related activities away from the LSRF and onto the UCL.

Analysis of Problem

Division of Legal Services - The Corporate Fraud Section investigates and prosecutes cases concerning securities and commodities fraud; violations of state labor laws such as underground economy schemes; financial wrongdoing perpetrated against the state under California's False Claims Act; and market manipulation arising out of California's energy crisis.

The Energy Unit represents the state in state and federal litigation, and in administrative proceedings before the Federal Energy Regulatory Commission (FERC), to recover huge sums lost to predatory pricing, fraud, market manipulation, and other unlawful conduct during the 2000-2001 California Energy Crisis.

California was hit with tens of billions in overcharges, and the manipulation and illegal rates charged by Enron and others caused blackouts, forced the State's largest utility into bankruptcy and forced the State to form its own emergency energy utility through the Department of Water Resources. California investor-owned utility ratepayers continue to pay for the bonds issued to finance the costs of the crisis.

To date, the Energy Unit's work has resulted in a number of legal victories, and settlements with over 50 sellers which have yielded recoveries of over \$7 billion. The funds recovered are returned to the ratepayers, either through reimbursement to the Department of Water Resources, or through reduction in the rates which would otherwise be charged by the investor-owned utilities. However, a number of sellers, including sellers which owe large refunds, still have not settled, and therefore the litigation at FERC continues. There are four active FERC cases at present, including one over the expensive long-term contracts entered into during the crisis, worth up to \$2.8 billion in potential refunds, and three seeking refunds on short term transactions, collectively worth over \$1 billion in refunds.

The first years of the energy unit were funded by the General Fund. Settlements that were achieved from that work, funded the program for approximately the next eight years (through the now defunct Ratepayer Relief Fund). Also during those years, some of the work was conducted on behalf of a client, and that work was paid from the LSRF.

However, as the work shifted to administrative proceedings before the FERC, the funding source remained in the LSRF. Therefore, consistent with the technical adjustment in the Consumer Law section, we are requesting to transition the approximate \$7.94 million in funding for Energy related activities away from the LSRF and onto the UCL.

Division of Law Enforcement – Bureau of Investigation (BI) provides statewide expert investigative services to enhance public safety by focusing law enforcement efforts in the areas of organized crime, consumer fraud, cyber-crimes, and any crime or civil action of statewide importance to the Attorney General.

Additionally, BI operates a Special Investigations Team (SIT) Program to support the Attorney General's Legal Services Division by conducting a wide range of complex investigations. This program was created in the aftermath of a significant General Fund budget reduction in the Division of Law Enforcement during the 2011-12 fiscal year.

At that time, the Legislature approved the use of LSRF to support special agents conducting consumer protection investigations and investigations on behalf of the Legal Services Division and their respective clients. Since that time, the number of investigations conducted on behalf of clients in our legal division have not been sufficient to recover the program costs.

To remedy this situation, we are requesting to transition approximately \$5.7 million in funding for non-client consumer protection investigations from LSRF to the Public Rights Law Enforcement Fund. This will allow the department to fund the non-billable portion of the SIT program with settlement proceeds obtained from the successful prosecution of the cases that involved agent investigative services.

Analysis of Problem

C. State Level Considerations

The California Constitution identifies the Attorney General as the chief law officer of the State and places upon the Attorney General, a duty to see that the laws of the State are uniformly and adequately enforced (Art.V, Sec 13).

D. Justification

This proposal will realign current program activities with existing special funds that have a more direct nexus to the activities performed. As a result, the realignment will provide better budget transparency to departmental operations by more accurately reflecting the costs of client legal services, the costs of consumer protection services, and the costs of various investigative services conducted on behalf of the Legal Services Division.

E. Outcomes and Accountability

Approval of this request will better align various consumer protection activities with the Special Fund that was statutorily created to fund those activities.

F. Analysis of All Feasible Alternatives

Alternative One: Realign Special Fund spending authority. This alternative will realign existing program activities with an existing special fund that more accurately reflects the nature of the activities. In addition, this alternative will result in a more transparent display of the activities within the Legal Services Division and the Division of Law Enforcement.

Alternative Two: Request additional Special Fund spending authority. This alternative will result in an increase of \$16,470,000 in Special Fund spending authority. Additionally, this alternative will better reflect the costs of investigative services and consumer protection activities, but will overstate the costs of client legal services.

Alternative Three: Continue with current budget structure. This alternative will continue to overstate the costs of client legal services and may lead the public to erroneous conclusions of the costs of providing various legal services within the department.

G. Implementation Plan

This proposal will become effective when the 2016 Budget Act is chaptered.

H. Supplemental Information – None

I. Recommendation – Approve Alternative One

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DEPARTMENT OF FINANCE
COR/JUD

**Department of Finance
2016-17
Finance Letter Worksheet**

0820-001-3053-2016

Prop 98: N

**DEPT: Department of Justice
STATE OPERATIONS**

0820-400-BCP-BR-2016-MR

Technical Budget Adjustment

Proposal Summary

Category Changes

| | Positions | Whole Dollars |
|----------------------------------|------------------|----------------------|
| Salaries and Wages | 24.0 | 3,128,000 |
| Staff Benefits | 0.0 | 1,622,000 |
| Operating Expenses and Equipment | 0.0 | 974,000 |
| Total Category Changes | 24.0 | \$5,724,000 |

Program Changes

| | | |
|------------------------------|-------------|--------------------|
| 0440 Law Enforcement | 24.0 | 5,724,000 |
| Total Program Changes | 24.0 | \$5,724,000 |

Fund Changes

| | | |
|-------------------------------------|-------------|--------------------|
| Amount Funded by 0820-001-3053-2016 | 24.0 | 5,724,000 |
| Net Impact to Item | 24.0 | \$5,724,000 |

ASM CONSULTANT: MJD

SEN CONSULTANT: JSG

DOF ANALYST: Tiffany Garcia

LAO DIRECTOR: DS

SCENARIO: May Revision

VERSION: Finance Working

RUN DATE: Apr 27, 2016 09:03 AM

**Department of Finance
2016-17
Finance Letter Worksheet**

0820-001-3087-2016

Prop 98: N

**DEPT: Department of Justice
STATE OPERATIONS**

0820-400-BCP-BR-2016-MR

Technical Budget Adjustment

Proposal Summary

| Category Changes | | Positions | Whole Dollars |
|----------------------------------|-------------------------------------|------------------|----------------------|
| Salaries and Wages | | 13.3 | 1,410,000 |
| Staff Benefits | | 0.0 | 1,038,000 |
| Operating Expenses and Equipment | | 0.0 | 8,298,000 |
| Total Category Changes | | 13.3 | \$10,746,000 |
| Program Changes | | | |
| 0435 | Division of Legal Services | 13.3 | 10,746,000 |
| Total Program Changes | | 13.3 | \$10,746,000 |
| Fund Changes | | | |
| | Amount Funded by 0820-001-3087-2016 | 13.3 | 10,746,000 |
| Net Impact to Item | | 13.3 | \$10,746,000 |

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**Department of Finance
2016-17
Finance Letter Worksheet**

0820-001-9731-2016

Prop 98: N

**DEPT: Department of Justice
STATE OPERATIONS**

0820-400-BCP-BR-2016-MR

Technical Budget Adjustment

Proposal Summary

| Category Changes | | Positions | Whole Dollars |
|----------------------------------|-------------------------------------|------------------|----------------------|
| Salaries and Wages | | -37.3 | -4,538,000 |
| Staff Benefits | | 0.0 | -3,242,000 |
| Operating Expenses and Equipment | | 0.0 | -8,690,000 |
| Total Category Changes | | -37.3 | \$-16,470,000 |
| Program Changes | | | |
| 0435 | Division of Legal Services | -13.3 | -10,746,000 |
| 0440 | Law Enforcement | -24.0 | -5,724,000 |
| Total Program Changes | | -37.3 | \$-16,470,000 |
| Fund Changes | | | |
| | Amount Funded by 0820-001-9731-2016 | -37.3 | -16,470,000 |
| Net Impact to Item | | -37.3 | \$-16,470,000 |

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